

# EXHIBIT 9

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1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

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3 BLACKROCK ALLOCATION TARGET  
4 SHARES: SERIES S PORTFOLIO, et al.,

Plaintiffs,

v.

14 Civ. 9371 (RMB) (SN)

6 WELLS FARGO BANK, NATIONAL  
7 ASSOCIATION, et al.,

8 Defendants.

9 -----x

New York, N.Y.

May 19, 2016

3:00 p.m.

11 Before:

12 HON. SARAH NETBURN,

13 Magistrate Judge

14 APPEARANCES

15 BERNSTEIN LITOWITZ BERGER & GROSSMAN, LLP

16 Attorneys for Plaintiffs

17 BY: BENJAMIN GALDSTON

18 JONES DAY

Attorneys for Defendants

19 BY: JASON JURGENS

HOWARD FREDRICK SIDMAN

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1 the other modifications and what your view is? So it appears  
2 that 28 of the 43 other targeted searches are now limited by  
3 time, that 14 of the other targeted searches are now limited by  
4 plaintiffs, 31 of the 34 plaintiff specific searches are now  
5 limited by time periods. How does that play out for you?

6 MR. GALDSTON: Well, your Honor, I think that  
7 obviously anything that is a limitation is a step in the right  
8 direction. But, again, in crafting ESI searches, it is not a  
9 piecemeal approach. These things all work together. It is a  
10 very dynamic process.

11 So what you need to look at is what the end result is,  
12 and while those particular refinements we think are a step in  
13 the right direction, it would have certainly been more  
14 effective had the parties met and conferred and discussed those  
15 and thought of ways, tested ways, or done more effort to get at  
16 what is really causing this extraordinary burden from Wells  
17 Fargo.

18 THE COURT: I don't necessarily disagree, and I assume  
19 that Wells Fargo is going to tell me that either it did or it  
20 tried, but I am sort of less interested at this stage in the  
21 process of about why the meet-and-confer process did not result  
22 in agreement.

23 So I am faced with a lot of search terms, and as I  
24 have said, I am inclined to allow some, but I am trying to be  
25 reasonable here, given the case has been significantly narrowed

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1 and there are ways in which the Wells Fargo case is different  
2 than the other cases. I am trying to come up with something  
3 that is fair and appropriate, notwithstanding the fact that  
4 maybe you would have preferred the process to play out  
5 differently.

6 If you can tell me, Mr. Galdston, and then I'll be  
7 sure to let Mr. Jurgens or Mr. Sidman speak.

8 MR. GALDSTON: Your Honor, I think the proof is in the  
9 numbers. You know, we have been applying the search terms that  
10 we did not object to using all along. Thus far, we have  
11 reviewed millions of documents. I should say millions of  
12 pages. I don't know the total number of documents. It  
13 probably exceeds one million.

14 We have produced 320-something thousand documents, and  
15 we expect by the end of the month, by the end of next month,  
16 when the document discovery period closes, I don't have an  
17 estimate for your Honor, but I expect it will be a very  
18 significant number. The search terms we are using are working  
19 and it has proven itself out. It has manifested those numbers.

20 We have done everything we can to try to work with  
21 Wells Fargo to make some adjustments. If there is a specific  
22 issue they don't think they're getting, I am happy to hear  
23 about that. But to wholesale revise the search terms is going  
24 to set this case back to square one. We will not be able to in  
25 any way, shape or form comply with the current deadline and

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1 probably are going to need another, you know, year to do the  
2 review and the production that they have proposed.

3 THE COURT: So what search terms are you running if  
4 Wells Fargo hasn't apparently agreed to terms? You're running  
5 what they ran?

6 MR. GALDSTON: They are actually quite similar to the  
7 proposal that Wells Fargo has given us in structure as well as  
8 in content. I don't know exactly how much detail you want me  
9 to go into, but as I told the court before, they try to get at  
10 the issues by including the trust names, the CUSIPs, and then  
11 concepts that related to the themes of parties, claims and  
12 defenses, by using words and concepts, phrases, in connection  
13 with entities and the trust in the CUSIPs.

14 So that is conceptually how these search terms are  
15 devised. It is not simply a list of words that you run, you  
16 know, across a database. These are concepts and they really do  
17 get at the issues in the case. Our position is, stay the  
18 course, that the search terms that we are using are very  
19 effective. They have made an enormous production. There are  
20 12 trusts in this case. The numbers that we have produced in  
21 terms of documents and the numbers that we expect to produce  
22 are as large and will probably even be larger than the numbers  
23 we are producing in HSBC, which is a case where discovery  
24 concerns 24 trusts, twice as many trusts as the trusts here.

25 Again, this is assuming we don't even touch the